

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:08-CV-363-FDW-DCK**

BRENDA KAY RUPARD,)	
)	
Plaintiff,)	
)	
vs.)	ORDER OF REMAND
)	PURSUANT TO SENTENCE
MICHAEL J. ASTRUE,)	SIX OF 42 U.S.C. § 405(g)
Commissioner of Social Security,)	
)	
Defendant.)	

THIS MATTER IS BEFORE THE COURT on Defendant’s “Motion For Entry Of Order Of Remand Pursuant to Sentence Six of 42 U.S.C. § 405(g)” (Document No. 5) filed October 17, 2008. This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b) and immediate review is appropriate.

Having carefully considered the motion, the undersigned will grant the motion.

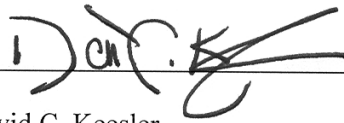
The United States of America, by counsel, has moved this Court, pursuant to sentence six of 42 U.S.C. § 405(g), to enter an order remanding this case to the Commissioner for further administrative proceedings. *See Melkonyan v. Sullivan*, 501 U.S. 89, 101 n.2 (1991); *Shalala v. Schaefer*, 113 S.Ct. 2625, 2629 n.2. (1993).

Remand is necessary because the Commissioner is unable to locate the recording of the hearing held on January 8, 2008; further, because the Commissioner is unable to locate the claim file containing the Administrative Law Judge’s denial of the claim. Upon receipt of the Court Order, the Appeals Council will remand this case to the Administrative Law Judge for a *de novo* hearing.

The Commissioner requests voluntary remand of the claim, and good cause exists to support this request for remand.

THEREFORE IT IS ORDERED that, pursuant to sentence six of 42 U.S.C. § 405(g), this case is remanded to the defendant Commissioner in order for an Administrative Law Judge to conduct a *de novo* hearing. No judgment shall be entered in this matter at this time.

Signed: October 20, 2008



David C. Keesler
United States Magistrate Judge

